

REMARKS

Claims 1, 5 and 30-31 are pending. Claims 2-4, 6-29 are canceled. Claim 1 is amended. Support for the amendments to claim 1 can be found, for example, in the specification at page 6, paragraph 2; page 7, paragraph 4; page 9, paragraph 2; and in the claims 6 and 27-29 as originally filed. No new matter has been added.

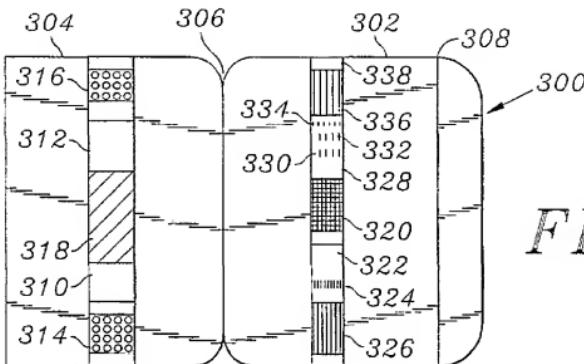
Rejections under 35 U.S.C. § 102

Claims 1, 5 and 27-31 are rejected under 35 U.S.C. § 102(b) as anticipated by Chandler (US Patent 5,468,648).

Claim 1 requires an assay device for detecting an analyte in a liquid sample. The assay device comprises a casing, a labeling region, and a nitrocellulose strip. The casing includes at least one window. The nitrocellulose strip is located within the casing, and is substantially opaque in a dry state and translucent when contacted by the liquid sample. The strip includes a analyte detection region, a printed line, and a control region. The analyte detection region includes an immobilized binding agent which binds the analyte. The printed line is located on the lower surface of the strip in the analyte detection region. The printed line is on the side of the nitrocellulose strip that is not visible through the window when the nitrocellulose strip is in a dry state. The control region is located downstream of the analyte detection region. In use, the liquid sample contacts and migrates along the nitrocellulose strip, and the printed line is visible to a user through the window when the nitrocellulose strip is translucent.

Chandler describes a device comprising a first opposable component **302** and a second opposable component **304** joined by a hinge. The first opposable component includes a specimen pad **320**, at least one chromatographic medium **322**, first and second detection zones **324, 326**, first and second conductors **326, 336**, control zone **330**, and limit line **334**. The second

opposable component 304 including first and second windows 310, 312, first and second reagent pads 314, 316, and an absorber 318. The limit line 334 is located between the detection zone 332 and the second conductor 336 (Chandler, column 26, lines 36-39). Figure 4 of Chandler is shown below.



Section 2131 of the MPEP states:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Chandler fails to disclose a printed line located on the lower surface of the nitrocellulose strip in the analyte detection region, wherein the printed line is on the side of the nitrocellulose strip that is not visible through the at least one window when the nitrocellulose strip is in a dry state. One would understand upon reading Chandler that the limit line in Chandler is visible to

the user when the test strip is in a dry state. There is no disclosure in Chandler that the limit line is printed on the side of the nitrocellulose strip that is not visible when the strip is in a dry state.

As Chandler does not disclose or suggest every limitation of independent claim 1 and the claims dependent thereto, the present claims are not anticipated by Chandler. Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,

Date: October 12, 2010

/Beth E. Arnold/

Customer No. 63767

Beth E. Arnold

Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2600

Reg. No. 35,430

Attorney/Agent for Applicant(s)

Tel. No. (617) 832-1230

Fax No. (617) 832-7000